

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON

Assigned on Briefs November 13, 2013

STATE OF TENNESSEE v. ELTON BRENT STANFILL

Appeal from the Circuit Court for Hardin County
No. 9592 C. Creed McGinley, Judge

No. W2013-00623-CCA-R3-CD - Filed December 2, 2013

The Defendant, Elton Brent Stanfill, pleaded guilty to one count of initiation of the process to manufacture methamphetamine and one count of unlawfully using or possessing with intent to use drug paraphernalia. The trial court sentenced him to concurrent sentences of eight years for the methamphetamine conviction and eleven months and twenty-nine days for the unlawful drug paraphernalia conviction. The trial court ordered the Defendant to serve ninety days in custody and placed him on Community Corrections for the remainder of his sentence. In July 2012, the Defendant's Community Corrections officer filed an affidavit alleging the Defendant had violated his Community Corrections sentence. The trial court issued a warrant, and, after a hearing, revoked the Defendant's Community Corrections sentence. On appeal, the Defendant contends the trial court erred when it revoked his Community Corrections sentence because the State failed to show that he had violated the conditions of his sentence and because he should have been given an opportunity for rehabilitation. After a thorough review of the record and applicable authorities, we conclude that the trial court did not err when it revoked the Defendant's Community Corrections sentence and affirm the trial court's judgment.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed

ROBERT W. WEDEMEYER, J., delivered the opinion of the court, in which ALAN E. GLENN and ROGER A. PAGE, JJ., joined.

Frankie Stanfill, Camden, Tennessee, for the appellant, Elton Brent Stanfill.

Robert E. Cooper, Jr., Attorney General and Reporter; Clark B. Thornton, Assistant Attorney General; Hansel J. McCadams, District Attorney General; and Ed N. McDaniel, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

I. Facts

A. Background

This case arises out of two guilty pleas entered by the Defendant in April 2012, for which he received an effective eight-year sentence. The trial court ordered the Defendant to serve ninety days in custody, and the remainder of his sentence on Community Corrections.

On January 10, 2012, the trial court issued a violation warrant against the Defendant. The following evidence was presented at a hearing to determine whether the Defendant had violated his Community Corrections sentence:

The Defendant's Community Corrections officer, Darrin Graves, testified that the Defendant had acquired four new criminal charges while under his supervision. Further, Mr. Graves stated that he had not seen the Defendant except in the courtroom. Mr. Graves testified that the Defendant had not followed the supervision program rules "at all."

The Defendant admitted in open court that he had acquired new charges but noted that some of the charges had been dismissed. The Defendant requested that the trial court allow him to enter into a long-term rehabilitation program, in lieu of serving his sentence.

The trial court revoked the Defendant's Community Corrections sentence and ordered the Defendant to serve his sentence in the Tennessee Department of Correction, with credit for time served and time under Community Corrections. The trial court found that the Defendant had admitted violations of his supervision in open court, and that the Defendant's violations were "willful" and "intentional." The trial court further stated that the Defendant showed a "total lack of amenability to correction," also noting the Defendant's total failure to comply with supervision. It is from this judgment that the Defendant now appeals.

II. Analysis

On appeal, the Defendant contends that the trial court erred when it revoked his Community Corrections sentence because the State failed to show by a preponderance of the evidence that the Defendant had violated the conditions of his supervision. The State responds that the trial court had substantial evidence to revoke his Community Corrections sentence.

Our review of a trial court of Community Corrections revocation is similar to our review of a trial court's probation revocation. *State v. Harkins*, 811 S.W.2d 79, 83 (Tenn.

1991). A trial court may revoke probation upon its finding by a preponderance of the evidence that a violation of the conditions of probation has occurred. T.C.A. § 40-35-311(e) (2010). “In probation revocation hearings, the credibility of witnesses is to be determined by the trial judge.” *State v. Mitchell*, 810 S.W.2d 733, 735 (Tenn. Crim. App. 1991). If a trial court revokes a defendant’s probation, its options include ordering confinement, ordering the sentence into execution as originally entered, returning the defendant to probation on modified conditions as appropriate, or extending the defendant’s period of probation by up to two years. T.C.A. § 40-35-308(a), (c), -310 (2010); *see State v. Hunter*, 1 S.W.3d 643, 648 (Tenn. 1999).

The judgment of the trial court in a revocation proceeding will not be disturbed on appeal unless there has been an abuse of discretion. *See State v. Smith*, 909 S.W.2d 471, 473 (Tenn. Crim. App. 1995). In order for this court to find an abuse of discretion, “there must be no substantial evidence to support the conclusion of the trial court that a violation of the conditions of probation has occurred.” *State v. Shaffer*, 45 S.W.3d 553, 554 (Tenn. 2001). After finding a violation, the trial court is vested with the statutory authority to “revoke the probation and suspension of sentence and cause the defendant to commence the execution of the judgment as originally entered” T.C.A. § 40-35-311(e)(1) (2010); *accord Hunter*, 1 S.W.3d at 646 (holding that the trial court retains the discretionary authority to order the defendant to serve his or her original sentence in confinement). Furthermore, when probation is revoked, the trial court may order “the original judgment so rendered to be in full force and effect from the date of the revocation of the suspension” T.C.A. § 40-35-310(a) (2010).

The evidence shows that the Defendant failed to report to his Community Corrections officer, failed to pay costs, and admitted that he failed to obey the law. The trial court found that the Defendant willfully violated the terms of his Community Corrections sentence. Thus, the trial court did not abuse its discretion when it ordered the Defendant’s Community Corrections sentence to be revoked. The Defendant is not entitled to relief on this issue.

III. Conclusion

Based upon the foregoing authorities and reasoning, we affirm the judgment of the trial court.

ROBERT W. WEDEMEYER, JUDGE